

## DENTAL BOARD[650]

### Adopted and Filed Emergency After Notice

Pursuant to the authority of Iowa Code section 147.76, the Dental Board hereby adopts amendments to Chapter 29, “Sedation and Nitrous Oxide Inhalation Analgesia,” Iowa Administrative Code.

The amendments include:

- Adding new definitions for “board,” “committee,” “capnography,” and “facility.”
- Clarifying that before a permit will be issued the facility must be inspected and successfully pass the inspection.
- Clarifying that a permit will not be issued until completion of a peer review evaluation, if required by the Board.
- Clarifying that a dentist shall ensure that each facility where sedation services are provided is permanently equipped, as defined in Board rule.
- Rescinding the option of issuing a “provisional” permit.
- Establishing the frequency of Board office inspections (every five years) and providing an exception for the University of Iowa College of Dentistry (requiring UICD to submit, every five years, written verification that it is properly equipped).
- Requiring all deep sedation/general anesthesia permit holders to use capnography at all facilities where they provide sedation beginning January 1, 2014, consistent with practices of the American Association of Oral and Maxillofacial Surgeons (AAOMS).
- Correcting a reference in subrule 29.10(1) to “conscious” sedation by changing it to “moderate” sedation and updating a cross reference to the rule applicable to facility site visits.
- Describing the process by which permit applications are reviewed by staff and reviewed by the Anesthesia Credentials Committee (ACC) at a public meeting and the process by which the ACC recommendations are presented to the Dental Board for final action.
- Clarifying that the appeal process for denial of a permit will follow the process described in rule 650—11.10(147).
- Rescinding outdated references to earlier renewal years, correcting cross references, and making other minor amendments.

Notice of Intended Action was published in the Iowa Administrative Bulletin on September 4, 2013, as **ARC 1008C**.

A public hearing was held on September 24, 2013. A representative of the Association of Nurse Anesthetists attended the hearing and offered written and oral comments. The written comments indicated that the Association is supportive of the proposed amendments concerning use of capnography during procedures involving deep sedation/general anesthesia. The Association requested that the Board consider adding the requirement of capnography and pulse oximetry whenever nitrous oxide inhalation is used, whether for moderate sedation or deep sedation/general anesthesia. The Association also asked the Board to consider requiring Advanced Cardiac Life Support (ACLS) education and training for dentists utilizing nitrous oxide at any time and for all deep sedation/general anesthesia, as well as requiring ACLS for auxiliary personnel monitoring patients receiving nitrous oxide sedation at any level and for monitoring patients undergoing deep sedation/general anesthesia for dental procedures.

Other written comments were offered by the Iowa Society of Oral and Maxillofacial Surgeons (ISOMS) during the public comment period at the Board’s open-session meeting on October 31, 2013. The ISOMS letter indicated that the organization endorses the amendments that require facilities to pass inspection prior to provision of moderate/deep sedation and general anesthesia procedures; supports the five-year period for office inspections; and is concerned about the removal of the Board’s ability to issue “provisional” or “interim” permits and the impact this would have on ISOMS practices, especially on new practitioners joining established practices. The letter stated that ISOMS is in favor of potential revisions under consideration by the Board that would authorize the Executive Director to issue a permit if the ACC recommended an unrestricted permit.

ISOMS also brought to the attention of the Board the discrepancy between the AAOMS parameters of care, which require the use of capnography for patients under moderate sedation, deep sedation, and general anesthesia, and the proposed amendments, which do not require use of capnography when moderate sedation is being utilized.

The following revisions were made to the proposed amendments:

- A corrective revision was made in rule 650—29.4(153), “Requirements for the issuance of moderate sedation permits.” The cross reference in subrule 29.4(3) was corrected to refer to subrule 29.4(2) (listing what constitutes a properly equipped facility utilizing moderate sedation) instead of 29.3(2) (listing what constitutes a properly equipped facility utilizing deep sedation/general anesthesia).
- A change was made to rule 650—29.11(153), “Review of permit applications,” as a result of public comments received. Subrule 29.11(3) was added to provide for the delegation of authority to the Executive Director to issue a permit administratively, provided that the ACC recommends an unrestricted permit. Consequently, proposed subrules 29.11(3) to 29.11(5) were renumbered as 29.11(4) to 29.11(6).

There were several comments received that the Board determined would need to be addressed by a separate rule making. The Board intends to initiate a Notice of Intended Action regarding (1) the type of education and training required for the dentist and the person monitoring the patient (e.g., Advanced Cardiac Life Support (ACLS), Pediatric Advanced Life Support (PALS)) and (2) the use of capnography at dental offices where moderate sedation is administered.

These amendments were approved at the October 31 and November 1, 2013, quarterly meeting of the Iowa Dental Board.

The Board finds, pursuant to Iowa Code section 17A.5(2)“b”(2), that the normal effective date of these amendments should be waived and these amendments should be made effective upon filing, as they confer a benefit on permit applicants and provide for the protection of the public health and safety. The amendment by which the Board delegates authority to the Executive Director to issue moderate sedation and deep sedation/general anesthesia permits administratively, provided that the Anesthesia Credentials Committee recommends an unrestricted permit, confers a benefit on dentists who otherwise would need to wait until the next quarterly Board meeting for final action to be taken on their applications. According to ISOMS, many practices have a significant number of patients for whom anesthesia services are necessary and beneficial. ISOMS reports that delays in provision of these services would substantially limit available care to Iowa residents in need of treatment.

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code sections 153.33 and 153.34.

These amendments became effective November 4, 2013.

The following amendments are adopted.

ITEM 1. Adopt the following **new** definitions in rule **650—29.1(153)**:

“*Board*” means the Iowa dental board established in Iowa Code section 147.14(1) “*d.*”

“*Capnography*” means the monitoring of the concentration of exhaled carbon dioxide in order to assess physiologic status or determine the adequacy of ventilation during anesthesia.

“*Committee*” or “*ACC*” means the anesthesia credentials committee of the board.

“*Facility*” means a dental office, clinic, dental school, or other location where sedation is used.

ITEM 2. Amend rule 650—29.2(153) as follows:

### **650—29.2(153) Prohibitions.**

**29.2(1) Deep sedation/general anesthesia.** Dentists licensed in this state shall not administer deep sedation/general anesthesia in the practice of dentistry until they have obtained a permit ~~as required by the provisions of this chapter.~~ Dentists shall only administer deep sedation/general anesthesia in a facility that has successfully passed inspection as required by the provisions of this chapter.

**29.2(2) Moderate sedation.** Dentists licensed in this state shall not administer moderate sedation in the practice of dentistry until they have obtained a permit ~~as required by the provisions of this chapter.~~

Dentists shall only administer moderate sedation in a facility that has successfully passed inspection as required by the provisions of this chapter.

**29.2(3)** and **29.2(4)** No change.

ITEM 3. Amend rule 650—29.3(153) as follows:

**650—29.3(153) Requirements for the issuance of deep sedation/general anesthesia permits.**

**29.3(1)** A permit may be issued to a licensed dentist to use deep sedation/general anesthesia on an outpatient basis for dental patients provided the dentist meets the following requirements:

- a. Has successfully completed an advanced education program accredited by the Commission on Dental Accreditation that provides training in deep sedation and general anesthesia; and
- b. Has formal training in airway management; and
- c. Has completed a minimum of one year of advanced training in anesthesiology and related academic subjects beyond the undergraduate dental school level in a training program approved by the board; and
- d. Has completed a peer review evaluation, as may be required by the board, prior to issuance of a permit.

**29.3(2)** A dentist using deep sedation/general anesthesia shall maintain a properly equipped facility at each facility where sedation is administered. The dentist shall maintain and be trained on the following equipment at each facility where sedation is provided: ~~anesthesia or analgesia machine~~ capnography, EKG monitor, positive pressure oxygen, suction, laryngoscope and blades, endotracheal tubes, magill forceps, oral airways, stethoscope, blood pressure monitoring device, pulse oximeter, emergency drugs, defibrillator. A licensee may submit a request to the board for an exemption from any of the provisions of this subrule. Exemption requests will be considered by the board on an individual basis and shall be granted only if the board determines that there is a reasonable basis for the exemption.

**29.3(3)** The dentist shall ensure that each facility where sedation services are provided is permanently equipped pursuant to subrule 29.3(2) and staffed with trained auxiliary personnel capable of reasonably handling procedures, problems and emergencies incident to the administration of general anesthesia. Auxiliary personnel shall maintain current certification in basic life support and be capable of administering basic life support.

**29.3(4)** to **29.3(7)** No change.

ITEM 4. Amend rule 650—29.4(153) as follows:

**650—29.4(153) Requirements for the issuance of moderate sedation permits.**

**29.4(1)** A permit may be issued to a licensed dentist to use moderate sedation for dental patients provided the dentist meets the following requirements:

- a. Has successfully completed a training program approved by the board that meets the American Dental Association Guidelines for Teaching Pain Control and Sedation to Dentists and Dental Students and that consists of a minimum of 60 hours of instruction and management of at least 20 patients; and
- b. Has formal training in airway management; or
- c. Has submitted evidence of successful completion of an accredited residency program that includes formal training and clinical experience in moderate sedation, which is approved by the board; and
- d. Has completed a peer review evaluation, as may be required by the board, prior to issuance of a permit.

**29.4(2)** A dentist utilizing moderate sedation shall maintain a properly equipped facility. The dentist shall maintain and be trained on the following equipment at each facility where sedation is provided: ~~anesthesia or analgesia machine~~, EKG monitor, positive pressure oxygen, suction, laryngoscope and blades, endotracheal tubes, magill forceps, oral airways, stethoscope, blood pressure monitoring device, pulse oximeter, emergency drugs, defibrillator. A licensee may submit a request to the board for an exemption from any of the provisions of this subrule. Exemption requests will be considered by the

board on an individual basis and shall be granted only if the board determines that there is a reasonable basis for the exemption.

**29.4(3)** The dentist shall ensure that each facility where sedation services are provided is permanently equipped pursuant to subrule 29.4(2) and staffed with trained auxiliary personnel capable of reasonably handling procedures, problems and emergencies incident to the administration of ~~general anesthesia~~ moderate sedation. Auxiliary personnel shall maintain current certification in basic life support and be capable of administering basic life support.

**29.4(4)** and **29.4(5)** No change.

~~**29.4(6)** A licensed dentist who has been utilizing moderate sedation on an outpatient basis in a competent manner for five years preceding July 9, 1986, but has not had the benefit of formal training as outlined in this rule, may apply for a permit provided the dentist fulfills the provisions set forth in subrules 29.4(2), 29.4(3), 29.4(4) and 29.4(5).~~

**29.4(7)** **29.4(6)** Dentists qualified to administer moderate sedation may administer nitrous oxide inhalation analgesia provided they meet the requirement of rule 650—29.6(153).

~~**29.4(8)**~~ **29.4(7)** If moderate sedation results in a general anesthetic state, the rules for deep sedation/general anesthesia apply.

~~**29.4(9)**~~ **29.4(8)** A dentist utilizing moderate sedation on pediatric or ASA category 3 or 4 patients must have completed an accredited residency program that includes formal training in anesthesia and clinical experience in managing pediatric or ASA category 3 or 4 patients. A dentist who does not meet the requirements of this subrule is prohibited from utilizing moderate sedation on pediatric or ASA category 3 or 4 patients.

ITEM 5. Amend rule 650—29.5(153) as follows:

**650—29.5(153) Permit holders.**

**29.5(1)** No dentist shall use or permit the use of deep sedation/general anesthesia or moderate sedation ~~in a dental office for dental patients, unless the dentist possesses a current permit issued by the Iowa board of dental examiners.~~ No dentist shall use or permit the use of deep sedation/general anesthesia or moderate sedation for dental patients in a facility that has not successfully passed an equipment inspection pursuant to the requirements of subrule 29.3(2). A dentist holding a permit shall be subject to review and facility inspection as deemed appropriate by the board at a frequency described in subrule 29.5(10).

**29.5(2)** and **29.5(3)** No change.

~~**29.5(4)** If an applicant will be practicing at a facility that has been previously inspected and approved by the board, a provisional permit may be granted to the applicant upon the recommendation of the anesthesia credentials committee after review of the applicant's credentials.~~

**29.5(4)** If a facility has not been previously inspected, no permit shall be issued until the facility has been inspected and successfully passed.

**29.5(5)** to **29.5(9)** No change.

**29.5(10)** Frequency of facility inspections.

a. The board office will conduct ongoing facility inspections of each facility every five years, with the exception of the University of Iowa College of Dentistry.

b. The University of Iowa College of Dentistry shall submit written verification to the board office every five years indicating that it is properly equipped pursuant to this chapter.

**29.5(11)** Use of capnography required beginning January 1, 2014. Consistent with the practices of the American Association of Oral and Maxillofacial Surgeons (AAOMS), all general anesthesia/deep sedation permit holders shall use capnography at all facilities where they provide sedation beginning January 1, 2014.

ITEM 6. Amend subrule 29.9(1), introductory paragraph, as follows:

**29.9(1)** *Reporting.* All licensed dentists in the practice of dentistry in this state must submit a report within a period of seven days to the board office of any mortality or other incident which results in temporary or permanent physical or mental injury requiring hospitalization of the patient during, or as

a result of, antianxiety premedication, nitrous oxide inhalation analgesia, or sedation. The report shall include responses to at least the following:

ITEM 7. Amend rule 650—29.10(153) as follows:

**650—29.10(153) Anesthesia credentials committee.**

**29.10(1)** The anesthesia credentials committee is a peer review committee appointed by the board to assist the board in the administration of this chapter. This committee shall be chaired by a member of the board and shall include at least six additional members who are licensed to practice dentistry in Iowa. At least four members of the committee shall hold deep sedation/general anesthesia or ~~conscious~~ moderate sedation permits issued under this chapter.

**29.10(2)** The anesthesia credentials committee shall perform the following duties at the request of the board:

a. Review all permit applications and make recommendations to the board regarding those applications.

b. Conduct site visits at facilities under ~~subrule 29.5(4)~~ rule 650—29.5(153) and report the results of those site visits to the board. The anesthesia credentials committee may submit recommendations to the board regarding the appropriate nature and frequency of site visits.

c. Perform professional evaluations and report the results of those evaluations to the board.

d. Other duties as delegated by the board or board chairperson.

ITEM 8. Rescind rule **650—29.12(153)**.

ITEM 9. Renumber rule **650—29.11(153)** as **650—29.12(153)**.

ITEM 10. Adopt the following new rule 650—29.11(153):

**650—29.11(153) Review of permit applications.**

**29.11(1)** *Review by board staff.* Upon receipt of a completed application, board staff will review the application for eligibility. Following staff review, a public meeting of the ACC will be scheduled.

**29.11(2)** *Review by the anesthesia credentials committee (ACC).* Following review and consideration of an application, the ACC may at its discretion:

a. Request additional information;

b. Request an investigation;

c. Request that the applicant appear for an interview;

d. Recommend issuance of the permit;

e. Recommend issuance of the permit under certain terms and conditions or with certain restrictions;

f. Recommend denial of the permit;

g. Refer the permit application to the board for review and consideration without recommendation;

or

h. Request a peer review evaluation.

**29.11(3)** *Review by executive director.* If, following review and consideration of an application, the ACC recommends issuance of the permit with no restrictions or conditions, the executive director as authorized by the board has discretion to authorize the issuance of the permit.

**29.11(4)** *Review by board.* The board shall consider applications and recommendations from the ACC. The board may take any of the following actions:

a. Request additional information;

b. Request an investigation;

c. Request that the applicant appear for an interview;

d. Grant the permit;

e. Grant the permit under certain terms and conditions or with certain restrictions; or

f. Deny the permit.

**29.11(5)** *Right to defer final action.* The ACC or board may defer final action on an application if there is an investigation or disciplinary action pending against an applicant who may otherwise meet the

requirements for permit until such time as the ACC or board is satisfied that issuance of a permit to the applicant poses no risk to the health and safety of Iowans.

**29.11(6) Appeal process for denials.** If a permit application is denied, an applicant may file an appeal of the final decision using the process described in rule 650—11.10(147).

ITEM 11. Amend renumbered rule 650—29.12(153) as follows:

**650—29.12(153) Renewal.** A permit to administer deep sedation/general anesthesia or moderate sedation shall be renewed biennially at the time of license renewal. ~~Prior to July 1, 2008, permits expired on June 30 of every even-numbered year. A permit due to expire June 30, 2008, shall be automatically extended until August 30, 2008, and expire August 31, 2008. Beginning July 1, 2008, permits~~ Permits expire August 31 of every even-numbered year.

**29.12(1)** To renew a permit, a licensee must submit the following:

- a. Evidence of renewal of ACLS certification.
- b. A minimum of six hours of continuing education in the area of sedation. These hours may also be submitted as part of license renewal requirements.
- c. The appropriate fee for renewal as specified in 650—Chapter 15.

**29.12(2)** Failure to renew the permit prior to November 1 following its expiration shall cause the permit to lapse and become invalid for practice.

**29.12(3)** A permit that has been lapsed may be reinstated upon submission of a new application for a permit in compliance with rule 650—29.5(153) and payment of the application fee as specified in 650—Chapter 15.

ITEM 12. Renumber rule **650—29.13(153)** as **650—29.14(153)**.

ITEM 13. Adopt the following new rule 650—29.13(147,153,272C):

**650—29.13(147,153,272C) Grounds for nonrenewal.** A request to renew a permit may be denied on any of the following grounds:

**29.13(1)** After proper notice and hearing, for a violation of these rules or Iowa Code chapter 147, 153, or 272C during the term of the last permit renewal.

**29.13(2)** Failure to pay required fees.

**29.13(3)** Failure to obtain required continuing education.

**29.13(4)** Failure to provide documentation of current ACLS certification.

**29.13(5)** Failure to provide documentation of maintaining a properly equipped facility.

**29.13(6)** Receipt of a certificate of noncompliance from the college student aid commission or the child support recovery unit of the department of human services in accordance with 650—Chapter 33 or 650—Chapter 34.

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